

SCENIC HAWAII, INC.

P.O. Box 10501, Honolulu, Hawaii 96816

scenichawaii.org

January 17, 2014

The Honorable Ann Kobayashi, Chair, and Members of the Committee on B
City and County of Honolulu
350 South King Street
Honolulu, Hawaii 96813

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Dear Chair Kobayashi and Committee Members

Testimony in Opposition to Bill 69 (2013) Relating to Public Transit

Scenic Hawaii, Inc, opposes the passage of Bill 69 (2013), which would allow exterior commercial signs on public transit buses and paratransit vehicles.

First, the proposal to allow advertising displays on the exterior of City buses is contrary to the State Billboard Law (Chapter 445, HRS), which covers all outdoor advertising and establishes the principle that advertising for a particular activity or product is permitted only on the premises where that activity occurs or that product is sold. It is also contrary to the City's general policy on vehicular advertising as established in Chapter 41-14, ROH.

The City has had a history of debate on this issue that is summarized below:

- In 1971, when the City acquired the bus system from the Honolulu Rapid Transit System, the City Council, after considerable debate, set the policy that City-owned buses would be kept free of outdoor advertising.
- In 1994, the City Council wisely reaffirmed a strict interpretation of that policy when it rejected a proposed "adopt-a-bus" program that would have allowed adopting companies to display their logos on the front of buses [Bill 97 (1993)].
- In 2003, the City Council again considered outdoor advertising on City-owned buses (Bill 50 (2003), and again rejected this measure.

In all of these years, the City was facing fiscal constraints and potential bus fare increases similar to the current circumstances. Yet, the City Council ultimately decided that the negative consequences of outdoor advertising outweighed any revenue that might be gained. As Hawaii has become increasingly dependent on tourism since 1971, and the tax revenues generated by that sector of the economy, our island's attractiveness as a visitor destination becomes an important, long-term fiscal consideration.

Please bear in mind that, if the City offers advertising space on its vehicles, it will be difficult to regulate content without inviting a First Amendment challenge. In 2006, the City successfully defended its ordinance banning aerial advertising against such a challenge that was appealed all the way to the U.S. Supreme Court by arguing that the regulation is "content neutral" because it prohibits all advertising. Will the City be able to successfully preclude advertising concerning a "public issue" on the side of a City bus if the message or images offend many people, residents and visitors alike? What legal costs might the City incur if it embarks on program of bus advertising?

For these reasons, we strongly urge you to reject this bill. It is far from clear that it will bring a net financial gain for the City, and we will have sacrificed one of the things that is very special about Hawaii.

Thank you for the opportunity to submit this testimony.

Sincerely,

A handwritten signature in dark ink, appearing to read "John P. Whalen". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

John P. Whalen, FAICP,
on behalf of the Board of Directors